S.B.Cr. Revision No . 269/2006
(Mahendra Kumar Vs. Gyan Chand)

Date of order : 25/4/2006

HON'BLE MR.H.R.PANWAR, J.

None present for the petitioner.

Despite repeated calls, no one appears for the petitioner. Earlier also, the matter was listed before this Court on 06.3.2006 no one appeared for the petitioner and it was directed to remove the defects within one week. Again the matter came up before this Court on 03.4.2006, on that date also, no one appeared for the petitioner and the matter was adjourned. Today also, even in third round, no one appears for the petitioner.

Perused the revision petition and the order impugned.

From the perusal of the order of the trial court, it appears that the trial court held that the proceeding cannot be dropped only on the ground of pendency of civil proceeding in the matter concerned. The petitioner before the trial court sought dropping of the proceedings on the ground that for the very amount of cheque, a suit has been filed by the non-petitioner.

It is settled law that there is no express bar engrafted in the Code of Criminal Procedure or any other statute

for the initiation of the criminal proceeding in a matters involving civil transaction, if from the material on record independently establish that the essential ingredient for an offence punishable is made out then the criminal proceeding as well as the civil proceeding can simultaneously continue. I am fortified with the view by decisions of Hon'ble Supreme Court in Lalmuni Devi Vs. State of Bihar (2001) 2 SCC 17, Alpic Finance Ltd. Vs. P.Sadasivan (2001) 3 SCC 513 and in M. Krishnan Vs. Vijay Singh (2001) 8 SCC 645, wherein the Apex Court held that it is also settled law that the facts may give rise to a civil claim and also amount to an offence. Merely because a civil claim is maintainable does not mean that the criminal complaint cannot be maintained. It was further held that merely on the ground that it was a civil wrong the criminal prosecution could not have been quashed by the High Court.

In this view of the matter, I do not find any error, illegality or perversity in the order impugned warranting interference in revisional jurisdiction . The revision petition is accordingly dismissed.

(H.R.PANWAR),J.

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